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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

BRUCE WESTIN,

Defendant and Appellant.

B213004

(Los Angeles County
Super. Ct. No. SA061160)

APPEAL from an order of the Superior Court of Los Angeles County,
James R. Dabney, Judge. Affirmed.

Murray A. Rosenberg, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Bruce Westin appeals from an order after judgment denying his motion to modify a restitution order. Previously he was convicted of committing vandalism causing damage over \$400 (Pen. Code, § 594, subd. (a)), and his conviction was affirmed on appeal. (*People v. Westin* (August 18, 2008, B202964) [nonpub. opn.].) Thereafter, the trial court's order imposing restitution pursuant to Penal Code section 1202.4 in the amount of \$94,547.48 was affirmed on appeal. (*People v. Westin* (September 30, 2008, B204594) [nonpub. opn.].)¹

As we stated in our previous opinions, the evidence at trial established that appellant was involved in an ownership dispute relative to a duplex in which he was living. In February 2006, Frederick Nitowski, the determined owner, began proceedings to evict appellant. During these proceedings, appellant threatened that the apartment was not going to be worth anything when he was done. In June 2006, after obtaining an eviction order from the court, Nitowski discovered that appellant had severely damaged the unit. At the time of trial, the damage to the premises was determined to be \$71,329. At a later restitution hearing, the court ordered appellant to reimburse the victim in the amount of \$94,547.48.

On November 12, 2008, appellant filed a request to modify restitution pursuant to Penal Code section 1202.4, subdivision (f)(1). He asserted in pertinent part that unknown to appellant at the time of his restitution hearing, appellant's mother had paid the entire homeowner's insurance policy covering the subject real property. He asserted the insurance policy completely covered the costs of all necessary repairs to the subject real property.

At the hearing on the motion to modify the restitution order, the court advised appellant that it did not matter that appellant's mother had contributed to the payments on the insurance policy. The court stated, however, it potentially could make a difference in

¹ We additionally affirmed the trial court's order denying appellant's motion to terminate probation but remanded the matter to the trial court to correct its minute order to accurately reflect its orders relating to appellant's travel restrictions. (*People v. Westin* (April 10, 2009, B209234) [nonpub. opn.].)

terms of the amount of restitution it ordered depending on what the arrangement was with the insurance. The court was unable to modify the restitution order, however, because it needed more information, for example, a copy of the insurance policy. The court also stated the outcome of the pending civil action might be relevant to the restitution order in the criminal case. The court denied the motion to modify the restitution order without prejudice, advising appellant he needed to provide the court more information than just a cancelled check signed by appellant's mother for payment of a homeowner's policy.

After review of the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On February 20, 2009, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider.

On March 18, 2009, appellant's motion to dismiss appointed counsel and to transfer the matter to a different division was denied.

We have examined the entire record and are satisfied that no arguable issues exist, and that appellant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the order entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The order is affirmed.

EPSTEIN, P. J.

We concur:

WILLHITE, J.

SUZUKAWA, J.